VA HANDBOOK 5011/12 Transmittal Sheet January 12, 2007

HOURS OF DUTY AND LEAVE

- **1. REASON FOR ISSUE:** To revise Department of Veterans Affairs (VA) policy regarding hours of duty and leave.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES: This change establishes mandatory policies related to hours of duty and leave. The revised change are effective at the beginning of the first full pay period that commences on or after 120 days from the date of certification, and will be incorporated into the Office of Human Resources Management and Labor Relations Web site. Significant changes include new procedures for scheduling the work of Veterans Health Administration employees in occupations listed in section 7401(1) of title 38, United States Code, to provide that management officials must establish work schedules in advance of the administrative workweek based on patient care and other work requirements. Such procedures already apply to employees in occupations listed under section 7401(3) of title 38, United States Code, and to General Schedule and Federal Wage System employees appointed under title 5, United States Code.
- **3. RESPONSIBLE OFFICE:** Worklife and Benefits Service (058), Office of the Deputy Assistant Secretary for Human Resources Management and Labor Relations.
- **4. RELATED HANDBOOK:** VA Directive 5011, Hours of Duty and Leave.

5. **RESCISSIONS**: None

CERTIFIED BY:

BY DIRECTION OF THE SECRETARY OF VETERANS AFFAIRS:

/s/Robert T. Howard Senior Advisor to the Deputy Secretary Supervisor, Office Information and Technology /s/R. Allen Pittman Assistant Secretary for Human Resources and Administration

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HOURS OF DUTY AND LEAVE

PART I. GENERAL PROVISIONS

- **1. PURPOSE.** This handbook contains instructions and mandatory procedures for Department of Veterans Affairs (VA) policy on the establishment of duty schedules and the administration of leave systems within VA. It is applicable to most VA employees, except for the following:
- a. Purchase and hire employees; however, they are subject to the provisions of 5 U.S.C. 5544(a), relating to overtime.
- b. Veterans Canteen Service employees appointed under authority of 38 U.S.C. ch. 77; they are subject to leave provisions of 5 U.S.C. ch. 63, but their leave policies are published in VCS-1, "Veterans Canteen Service Operating Procedures."
- c. Hospital administration residents are excluded by the provisions of 5 U.S.C. 6101(a)(1) and 5541(2)(v).
- d. Employees for whom no regular tour of duty has been established for each administrative workweek are not covered by any leave system.
- e. Persons employed on an intermittent basis, per annum fee basis, or lump-sum fee basis, under authority of 38 U.S.C. 7405 are paid for actual service rendered and therefore their duty schedules shall be determined by procedural requirements issued by the Under Secretary for Health. Such employees are not entitled to leave benefits.

2. REFERENCES

- a. 5 U.S.C. chs. 51, 55, 61, and 63.
- b. 38 U.S.C. chs. 73 and 74.
- c. 38 U.S.C. [501(a), 512(a), and] 7421.
- d. Executive Order 10358, as amended.
- e. 5 CFR parts 61 and 63.
- f. VA Handbook[s 5005 and] 5007.
- g. MP-4, part II and VHA Supplement, MP-4, part II.
- h. VA Manual M-8, Parts II, III and IV.

3. DEFINITIONS

- a. **Accrued Leave.** The leave earned by an employee during the current leave year that is unused at any given time in that leave year.
- b. **Accumulated Leave.** The unused leave remaining to the credit of an employee at the beginning of a leave year.
 - c. **Administrative Workweek.** The calendar week, Sunday through Saturday.
 - d. Alternate Work Schedules for Registered Nurses.
- (1) **36/40 Work Schedule.** Three regularly scheduled 12-hour tours of duty within an administrative workweek that is considered for all purposes to be a full 40 hour basic workweek.
- (2) **9-Month Work Schedule.** Nine months part-time with three months off duty within a fiscal year, paid at 75 percent of the full-time rate for such nurse's grade and step each bi-weekly pay period of the fiscal year.
- (3) **Baylor Plan.** Two regularly scheduled 12-hour tours of duty contained entirely within the first and last day of the administrative workweek (Sunday and Saturday)].

e. Basic Workweek

- (1) For full-time employees (other than physicians, dentists, podiatrists, chiropractors, optometrists, nurses, nurse anesthetists, physician assistants (PAs) and expanded-function dental auxiliaries (EFDAs) appointed under 38 U.S.C. Chapters 73 or 74), basic workweek is the 40 hour workweek established in accordance with 5 CFR 610.111 and Part II, Chapter 2 of this handbook.
- (2) Full-time physicians, dentists, podiatrists, chiropractors, and optometrists to whom the provisions of Part II, Chapter 3 of this handbook apply shall be continuously subject to call unless officially excused by proper authority. This requirement as to availability exists 24 hours per day, 7 days per week.
- (3) For full-time nurses, nurse anesthetists, PAs and EFDAs, basic workweek means a 40 hour workweek established in accordance with the provisions of Part II, Chapter 3 of this handbook. A 36/40 Work Schedule and the Baylor Plan (24-hour) basic workweek is established in accordance with the provisions of Part II, Chapter 3 of this handbook is applicable only to full-time nurses and nurse anesthetists. Employees under the 9-Month Work Schedule are considered part-time employees, except for purposes of health insurance per 38 U.S.C. 7456A(d)(4)].
- f. **General Leave Terms.** In administrating 5 U.S.C. ch. 63, VA will observe the definitions in 5 CFR 630.201.
- g. [Intermittent Employment. This term refers to the employment of an individual under the provisions of 38 U.S.C. 7405 (a)(1)(A) on an intermittent basis].

- h. [Irregular or Occasional Overtime Work. Overtime work that is not regularly scheduled].
- i. [Leave Year. A leave year begins on the first day of the first full biweekly pay period in a calendar year and ends the day before the first full biweekly pay period in the following calendar year].
- j. [Overtime Work and Overtime. Definitions are the same as the definitions in 5 CFR 550.103(i) and 550.111 for General Schedule (GS) employees and non-U.S. citizen employees overseas. Overtime for title 38 employees is discussed in VA Handbook 5007, part V, chapter 2].
- k. [Part-Time Employee. An employee who performs a regular tour of duty on less than a full-time basis. Such an employee may be required to perform duty on an unscheduled basis in addition to the regularly scheduled tour of duty. Part-time physicians appointed under 38 U.S.C. 7405(a)(1)(A) may also be placed on Adjustable Work Hours (see Part II, Appendix I)].
- l. [**Regular Overtime Work.** Any work qualifying as overtime work that is regularly scheduled in advance of the administrative workweek in which it occurs.
- m. **Regularly Scheduled Administrative Workweek.** For full-time employees (other than physicians, dentists, podiatrists, chiropractors, optometrists, nurses, nurse anesthetists, PAs and EFDAs appointed under 38 U.S.C. chs. 73 or 74), means the period within an administrative workweek, established in accordance with 5 CFR 610.111 and part II, chapter 3 of this handbook, within which these employees are required to be on duty regularly. For part-time employees (other than those appointed under 38 U.S.C. chs. 73 or 74), it means the officially prescribed days and hours within an administrative workweek during which these employees are required to be on duty regularly.]

NOTE: Section 6102, title 5, United States Code, requires that the regular hours of work for wage employees be established at not more than 8 per day or 40 per week, but work in excess of such hours shall be permitted when administratively determined to be in the public interest. Work in excess of 8 hours per day, or 40 hours per week, constitutes overtime work for General Schedule and wage employees (5 U.S.C. 5542 and 5543).

[n. VA Work. For guidance on determining whether the activities of VHA health care professionals constitute VA work, see chapter 3, paragraph 2g, of this part.]

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- (1) Except as indicated, employees shall be granted a reasonable amount of time within their tours of duty to change into or out of uniform. In situations involving successive shifts requiring continuity of service and exchange of information and instructions between employees, overlapping hours of duty shall be provided to the extent feasible so as to facilitate apportionment of time for purposes of changing into or out of uniforms within the prescribed tour of duty. In all such cases, tours of duty shall be so established as to assure that all full-time employees will be scheduled for a 40-hour basic workweek each calendar week.
- (2) If administrative necessity requires the changing into and out of uniform outside the employees' tours of duty, adequate additional time shall be officially scheduled for the employees before and after their regular tours of duty for such purpose. These scheduled periods of time shall be compensated under regulations pertinent to overtime pay, when appropriate.
- d. As a convenience for employees permitted to wear their uniforms to and from work, facilities should be made available for those who prefer to change at the facility.

11. ALTERNATIVE WORK SCHEDULES (FLEXIBLE AND COMPRESSED WORK SCHEDULES)

- a. **General.** This chapter implements Department of Veterans Affairs (VA) policies and procedures concerning flexible and compressed work schedules. It applies to employees under the General Schedule, members of the Senior Executive Service (SES), non-U.S. citizen employees outside the United States, and unless excepted under subparagraph b(2), employees compensated under the Federal Wage System and employees appointed under "hybrid" 38 United States Code (U.S.C.) 7401(3) and 7405 (a)(1)(B) appointments, such as physical therapists and registered respiratory therapists, nurses, nurse anesthetists, physician assistants and expanded-function dental auxiliaries. This paragraph does not apply to:
- (1) Veterans Health Administration employees appointed under chapter 73 or chapter 74, title 38, U.S.C., except as noted in the preceding subparagraph.

NOTE: VA policies on flexible and compressed schedules for nurses, nurse anesthetists, physician assistants and expanded function dental auxiliaries are contained in chapter 3 of this part. VA policies on compressed schedules for physicians, dentists, podiatrists, chiropractors, and optometrists, as well as the [Chief Nursing Officer] who is appointed under 38 U.S.C. 7306, are also contained in chapter 3, this part.

- (2) Veterans Canteen Service employees appointed under 38 U.S.C. ch. 78.
- (3) Purchase and hire employees appointed under Schedule A, 5 CFR part 213.
- (4) Employees compensated under the Executive Schedule (5 U.S.C. ch. 53).

CHAPTER 3. ESTABLISHMENT OF WORKWEEKS, TOURS OF DUTY, AND WORK SCHEDULES FOR EMPLOYEES APPOINTED TO TITLE 38 POSITIONS

1. SCOPE

- a. [Coverage.] This chapter contains basic policies and instructions governing duty for full-[time,] part-time[, intermittent and fee basis] physicians, dentists, podiatrists, chiropractors, optometrists, nurses, nurse anesthetists, physician assistants (PAs), and expanded-function dental auxiliaries (EFDAs) appointed under authority of 38 U.S.C., chapter 73 and 74.
- b. [Covered employees.] Except as otherwise indicated in part III, chapter 3, paragraph 13 of this handbook, hours of duty provisions for full-time physicians and dentists contained in this chapter are applicable to full-time residents appointed under authority of 38 U.S.C. 7406. The term "resident" as used in this paragraph refers to medical and dental residents. As used in this chapter, any reference to "nurse(s)" includes nurse anesthetist but does not include the [Chief Nursing Officer, Office of Nursing Services]; and "employee(s)" includes those personnel indicated in subparagraph a above (both full-time and part-time, unless otherwise specified). []
- c. [Excluded Employees. This chapter does not apply to employees in occupations other than those indicated in subparagraph a above, and who are appointed under authority of 38 U.S.C. chapter 73 and 74, including employees appointed under 38 U.S.C. 7306 and title 38 hybrid employees appointed to positions listed in 38 U.S.C. 7401(3)].
- d. [Intermittent and Fee Basis Employment.] Persons employed on an intermittent basis, per annum fee basis, or lump-sum fee basis, under authority of 38 U.S.C. 7405 are paid for actual service rendered and therefore their duty schedules shall be determined by procedural requirements issued by the Under Secretary for Health.

2. BASIC WORKWEEK AND OFFICIAL DUTY

- a. [Basic Workweek.] Unless otherwise indicated, the "basic workweek" for full-time employees shall be 40 hours in length. The normal tour of duty within the 40-hour basic workweek shall consist of five 8-hour days, exclusive of the meal period. Directors of field facilities, or their designees, are authorized to fix the hours of duty constituting the normal tours of duty within the 40-hour basic workweek. Full-time physicians, dentists, podiatrists, chiropractors, and optometrists to whom the provisions of this chapter apply shall be continuously subject to call unless officially excused by proper authority. This requirement as to availability exists 24 hours per day, 7 days per week. [However, full-time nurses and nurse anesthetists on the Baylor Plan shall be scheduled in advance for a 24-hour basic workweek in each administrative workweek. The basic workweek for nurses on the Baylor Plan shall consist of two regularly scheduled 12-hour tours of duty contained entirely within the first and last day of the administrative workweek, Sunday and Saturday.]
- b. [Administrative and Non-Duty Days and Days Off.] Full-time physicians, dentists, podiatrists, chiropractors, and optometrists shall be permitted two days each administrative workweek that are free from official duty to the extent that this does not impair provision of essential services in patient

treatment and care. Each such full day granted shall be called an "administrative non-duty day." Full-time VA Central Office and VA outpatient clinic employees will normally perform duty Monday through Friday of each workweek. The remaining 2 days (Sunday, the first day of the workweek and Saturday, the last day of the workweek) shall be designated as the administrative non-duty days of the workweek for physicians, dentists, podiatrists, chiropractors, and optometrists or the days off for nurses, nurse anesthetists, PAs and EFDAs. Unusual circumstances may make it necessary, however, for the Under Secretary for Health, chief consultants, or facility directors, as appropriate, to alter these provisions for specific individuals or groups of individuals in the best interests of the service.

c. [Establishment of Regularly Scheduled Administrative Workweeks.

- (1) When the official responsible for work scheduling knows in advance of an administrative workweek that the specific days and/or hours of a day actually required of an employee in that administrative workweek will differ from those required in the current administrative workweek, that official shall reschedule the employee's regularly scheduled administrative workweek to correspond with those specific days and hours. The official shall inform the employee of the change and shall be responsible for ensuring that the change is recorded on the employee's time card or its electronic equivalent.
- (2) In the exercise of this authority, officials shall prescribe individual hours of duty and changes to such hours as far in advance as possible. Such officials are also to give employees consideration in arranging schedules so long as such consideration is compatible with VA work requirements.]
- (3) Full-time nurses, nurse anesthetists, PAs, and EFDAs shall be scheduled in advance for a 40-hour basic workweek in each administrative workweek, except that full-time nurses and nurse anesthetists on the Alternate Work Schedules such as a 36/40 Work Schedule and the Baylor Plan shall be scheduled in advance in each administrative workweek.
- [(a)] The basic workweek for a registered nurse working a 36/40 Alternate Work Schedule will consist of three regularly scheduled 12-hour tours of duty within an administrative workweek. Under this work schedule the registered nurse is considered for all purposes to have worked a full 40 hour basic work week.
- [(b)] The basic workweek for a registered nurse working the 9-Month Alternate Work Schedule will consist of five 8-hour days, exclusive of the meal period, with 3 months off duty within a fiscal year.
- [(c)] The basic workweek for registered nurses working the Baylor Plan work schedule will consist of two regularly scheduled 12-hour tours of duty contained entirely within the first and last day of the administrative workweek (Sunday and Saturday).
- [(d)] The normal tour of duty within the 40-hour basic workweek shall consist of five 8-hour days, exclusive of the meal period. A full-time nurse or nurse anesthetist shall be placed on an Alternate Work Schedule only at the beginning of the administrative workweek and taken off at the end of the administrative workweek.
- d. [Patient Care Requirements.] Because of the continuous nature of the services rendered at hospitals, the facility Director, or designee (in no case less than a chief of service), has the authority to prescribe any tour of duty to ensure adequate professional care and treatment to the patient, consistent

with these provisions considered the employee's "Saturday." If the holiday falls on the employee's "Sunday," the first workday following that day shall be designated as the employee's day off in lieu of the holiday. If the holiday falls on the employee's "Saturday," the first workday preceding that day shall be designated as the employee's day off in lieu of the holiday. These rules shall apply whether or not the employee's days off actually fall on Saturday or Sunday. [This includes the obligation to arrange for continuous medical supervision required by policy in M-2, part I, chapter 4, "Medical Officer of the Day."]

- e. [Tours of Duty for Part-Time and Intermittent Employees. Except as provided in paragraph f below, part-time employees perform duty on less than a full-time basis and have a regularly scheduled tour of duty that is less than 80 hours in a biweekly pay period. Such employees may perform occasional unscheduled duty in addition to the regular tour of duty. Employees serve on an intermittent duty basis when employed on less than a full-time basis and have no prescheduled regular tour of duty.]
- f. [Adjustable Work Hours for Part-Time Physicians. This is a program to accommodate varying VA patient care needs and part-time VA physicians who have VA or non-VA patient care, research, or educational responsibilities that make adherence to the same regularly scheduled tour of duty every pay period difficult. Part-time physicians with fixed work requirements and those who do not routinely need to adjust their tours are not to be placed on adjustable work hours. Adjustable tours would be appropriate, for example, for part-time physicians at active affiliated facilities with extensive patient care, research, and educational responsibilities who frequently encounter emergencies and other unanticipated obligations that prevent them from maintaining a regularly scheduled tour of duty. Under such circumstances, it is difficult for management to administratively change or adjust the prescheduled tour and communicate this to the timekeeper in a timely manner. Adjustable work hours provide a means for minimizing this problem. After assessing their particular needs, facility Directors may authorize the use of adjustable work hours using the procedures in Appendixes I and J to this chapter.]

g. [Guidance on Determining Whether Activities of Health Care Professionals Constitute VA Work

- (1) Principles
- (a) The statutory missions of VHA include patient care, research and education, and supporting these broad missions entail a variety of different work activities. The primary focus is patient care; however, research, education, and administrative activities also contribute to increasing the quality of care provided to veterans. Positions covered by this chapter are to be supported by appropriate staffing guidelines. Officials approving tours of duty are responsible for structuring tours of duty based on these allocations and for ensuring that employees meet their patient care and other VA work requirements. Off site patient care, research, academic, or administrative activities must also be directly related to VA's mission and approved by the facility Director or designee and properly documented. For examples, see paragraph 2g(3) below.
- (b) Guidance in this handbook applies to all health care professionals whether employed in full-time or part-time status. VHA employees must be in a leave status or outside their regular tours of duty when

generating money or benefits for themselves such as receiving pay or other benefits from a non-VA entity. VHA employees are also legally barred from billing Medicare, Medicaid, or CHAMPUS for services not related to the performance of their official duties while on VA duty.

- (c) Prior to engaging in scarce medical specialist contracts or sharing agreements, VHA employees, especially those who have appointments with an affiliated university that provides services or resources to VA, should first consult with the Regional Counsel to ensure that their participation in such contracts or agreements do not result in a conflict of interest or prohibited salary supplementation.
 - (2) Physicians and Others Working in Academic Settings
- (a) For over 50 years VA has used attending physician-resident and physician teams as the predominant care providers in VA facilities affiliated with academic medical centers. The affiliation relationship as defined in Policy Memorandum No. 2. (January 30, 1946) and applicable VHA policy defines the parameters of this relationship. These documents serve as the basis for approving any off-site activities in support of VA's role in the affiliation. Frequently, attending physicians are employed part-time both by the academic affiliate and VA. However, VA work must be solely supported by VA, while work for the affiliate must be distinct and separately accounted for by the affiliate.
- (b) To support the accreditation of VA training experiences, full-time VA physicians and other VA professionals may hold faculty appointments at affiliates. The duties of these individuals, whether full-time or part-time VA, will involve providing care to VA patients, but may also involve administrative, academic, and research activities in support of VA.
- (c) Academic work performed at VA's request and paid for by VA must be distinguished from work for the affiliate. This distinction and accounting for VA time requires the collaboration between the affiliate and the local VA Clinical work at VA and at the affiliate must be carefully considered. Incomegenerating professional activities are allowable only outside of regular tours of duty or in a leave status. This is particularly important in situations where time at the affiliate has been approved as part of professional VA duties. While on VA duty status at the affiliate, professionals must take care to avoid any income-generating activities. Professionals who provide services both as employees and under sharing agreements should obtain guidance from their Regional Counsel.
- (3) Examples. VA managers are responsible for assigning work, and for ensuring VA employees are performing work that supports VA's missions. VA work can consist of veteran patient care, research, educational or administrative work performed either at the VA Medical Center or off-site. Off-site work must be directly related to VA's mission and approved by the Director or designee. The list below includes examples of on-site and off-site work, but is not inclusive.
 - (a) On-Site: (VA grounds)
- <u>1</u>. Clinical. Clinical duties involve providing and/or supervising patient services at VA, clinical teaching at VA related to the care of VA patients, providing patient care at an outpatient clinic, or participating in interdisciplinary patient care conferences at VA. For example, patient evaluation, invasive procedures, consultation, attending rounds, journal club, follow-up calls, clinical documentation, care coordination, or care planning conferences.

- <u>2</u>. Administrative. Administrative duties involve activities such as attending meetings at VA regarding program development, enhancement of clinical or teaching services, continuing medical education, patient care and medical staff issues (e.g., Drug Usage and Infection Control Committees, Clinical Executive Board, etc.).
- <u>3</u>. Research. Research activities include such things as conducting either funded or unfounded approved VA research activities in assigned VA lab space and attending meetings at VA related to research activities (e.g., Research and Development Committee).

(b) Off-Site:

<u>1</u>. Clinical. This includes providing services for VA patients at a non-VA location (e.g., a VA physician uses the affiliate catheterization lab to treat VA patients with no professional charge to VA); participating in interdisciplinary patient care conferences at an affiliate to discuss VA patients (e.g., approved VA representation at clinical conferences such as a Tumor Board); teaching related to the care of VA patients (e.g., Grand Rounds), approved attendance at Medical Executive Committee meetings; public service or other professional activities when the activity is considered to be of substantial benefit to VA in accomplishing its general mission or one of its specific functions; or providing services regarding a VA patient from another site (e.g., reading x-rays from home or entering patient notes via remote computer log-on).

NOTE: Health care professionals cannot receive any compensation from other sources for activities carried out when they are in a duty status; they must be in a leave status or outside their VA tour of duty.

- <u>2</u>. Administrative. This includes approved attendance at lectures, conferences, or off-site meetings related to VA duties (e.g., national or VISN committees or meetings); activities required to maintain academic status (appropriately shared with the affiliate in the case of part-time employees); approved VA representation at meetings at affiliates regarding curriculum development or resident selection; or other administrative issues related to VA activities for which employees are not compensated by the affiliate.
- <u>3</u>. Research. Conducting off-site funded research activities with written waiver from VACO (e.g., research space not available at VAMC); developing a letter of intent; VA representation on a joint IRB; or, if approved, non-funded research related to VA's mission.

NOTE: Time allocated for non-funded research will be at the discretion of the supervisor and approved by the COS or Director.

- <u>4</u>. Education. This involves such things as providing orientation or training to house staff or other students at the affiliate regarding information related to VA and its mission.
- h. **Accountability.** Timekeeping documents shall reflect actual hours worked by full-time, part-time, and intermittent employees. Failure to appropriately monitor compliance with the policies and procedures in this handbook, or failure to properly account for time and attendance may result in appropriate disciplinary and/or legal action.]

3. HOLIDAYS. Employees shall be excused to the extent possible for observance of the following holidays and non-workdays designated by Federal Statute or Executive Order: January 1, the third Monday in January, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, the fourth Thursday in November, December 25, and any other calendar day designated as a holiday or non-workday by Federal Statute or Executive Order. However, notwithstanding the preceding provisions of this subparagraph, full-time nurses and nurse anesthetists on the Baylor Plan shall not be entitled to holidays.

a. Full-Time Employees (Except Nurses and Nurse Anesthetists on the Baylor Plan)

- (1) For employees whose basic workweek is Monday through Friday, holidays falling on a Sunday shall be observed the following Monday; holidays falling on Saturday shall be observed on the preceding Friday; and all other holidays shall be observed on the day they occur.
- (2) For employees whose basic workweek is other than Monday through Friday, the employee's first day off in the calendar week is designated as the day off in lieu of Sunday and the employee's second day off in the calendar week is designated as the day off in lieu of Saturday.
- (a) When a holiday falls on the day designated as a day off in lieu of Sunday, the employee's next workday shall be the day observed as the holiday for that employee.
- (b) When a holiday falls on the day designated as a day off in lieu of Saturday, the employee's preceding workday shall be the day observed as the holiday for that employee.
- b. **Part-Time Employees.** Part-time employees who are excused from duty on a holiday are entitled to their regular pay for that day. [Otherwise eligible part-time employees required to work on holidays are not entitled to holiday premium pay for such service. However, employees whose absence is not authorized will be considered absent without leave and shall lose pay for the day.]
- c. **In-Lieu Non-workday.** An in-lieu non-workday may be granted to full-time physicians, dentists, podiatrists, chiropractors, and optometrists, for work performed on a holiday or the day observed as a holiday, provided the full-time employee's services can be spared without detriment to patient care. Such in-lieu day if authorized must be taken within 90 days by the full-time employee concerned. Full-time employees who are assigned to work on holidays and whose absences were not authorized will be reported as being on unauthorized absence and will lose pay for that day.

NOTE: An in-lieu non-workday shall not be authorized for a nurse, nurse anesthetist, PA or EFDA who works on a holiday or the day designated as a holiday.

d. Holiday Benefits in Connection With Absence in a Non-pay Status

(1) Employees (except full-time nurses and nurse anesthetists on the Baylor Plan) are entitled to payment for the holiday if they are absent in a non-pay status (including LWOP or AWOL) on the day immediately following the holiday, provided they were in a pay status (duty or leave) the day preceding

the holiday, and provided the holiday was not included within the period of non-pay status. If the holiday was included within the period of non-pay status, payment for the holiday will not be made. Wherever possible, periods of LWOP should not be scheduled so as to begin or end on a holiday.

- (2) Employees (except full-time nurses and nurse anesthetists on the Baylor Plan) in a non-pay status (including LWOP or AWOL) the day preceding the holiday will receive payment for the holiday, provided they are in a pay status (duty or leave) the next regularly scheduled workday immediately following the holiday, and provided the holiday was not included within the period of non-pay status.
- (3) The provisions of subparagraphs d (1) and (2) also apply to in-lieu days granted to full-time physicians, dentists, podiatrists, chiropractors, and optometrists.

e. Religious, State and Local Holidays

- (1) While there is no official observance of religious holidays, except those which may also be national holidays, it is the policy of VA to permit, when practicable, absence from work for those employees who desire to observe religious holidays. Employees may, under provisions of Public Law 95-390, and applicable regulations, elect to work compensatory overtime for the purpose of taking time off without charge to leave when their personal religious beliefs require that they abstain from work during certain periods of the workday or workweek, thereby avoiding an annual leave or leave without pay charge.
- (2) If a facility is closed on a State or local holiday because it is determined that Federal work may not be properly performed as provided in chapter 2, this part, absence on such day is not chargeable to leave for an employee of the facility. Such approved time off is considered authorized absence without charge to leave.

4. ADJUSTABLE WORK HOURS FOR PART-TIME PHYSICIANS

[See paragraphs 2f and g above and Appendixes I and J to this chapter.]

5. FLEXIBLE AND COMPRESSED WORK SCHEDULES FOR EMPLOYEES IN TITLE 38 POSITIONS

a. **General.** This paragraph contains Veterans Health Administration policies and procedures concerning flexible and compressed work schedules for VHA title 38 health care employees. All of the provisions of this paragraph apply to full and part-time nurses, graduate nurse technicians, nurse technicians pending graduation, nurse anesthetists, PA's (physician assistants) and EFDAs (expanded function dental auxiliaries) appointed under authority of 38 U.S.C. 7401(l) or 7405(a)(1.). Only the provisions on compressed work schedules apply to physicians, dentists, podiatrists, chiropractors, or optometrists appointed under 38 U.S.C., sections 7306, 7401(1), 7405 or 7406[]. The provisions in this paragraph do not apply to student nurse technicians or nurses and nurse anesthetists on the Baylor Plan.

NOTE: Instructions for compressed work schedules for employees in VA Central Office have been published in VA Directive 5610.3.

b. References

- (1) Federal Employees Flexible and Compressed Work Schedules Act of 1982 (Pub. L. 97-221, 5 U.S.C. 6120-6133.)
 - (2) 5 CFR 2472
 - (3) 38 U.S.C. 7421(a) and 7423(a)

c. **Definitions**

- (1) **Administrative Workweek.** A period of 7 consecutive calendar days, which coincide with the calendar week, Sunday through Saturday.
- (2) **Alternative Work Schedule.** A work schedule that is other than the traditional work schedule (8 hours per day/40 hours per week with fixed starting and quitting times), which consists of either a flexible work schedule or compressed work schedule.
- (3) **Basic Work Requirement.** The number of hours during a biweekly pay period, excluding overtime hours, which an employee is required to work or required to account for by leave or otherwise.
 - (4) **Biweekly Pay Period.** The pay period covering two administrative workweeks.

(5) Compressed Schedule

(a) In the case of a full-time employee, an 80-hour biweekly work requirement which is scheduled for fewer than 10 workdays.

[APPENDIX I. PRESCHEDULED PART-TIME TOURS AND THE UTILIZATION OF ADJUSTABLE WORK HOURS (TITLE 38)

1. PURPOSE OF ADJUSTABLE WORK HOURS

- a. **Coverage.** Adjustable work hours is a program established to accommodate varying VA patient care needs and part-time VA physicians who have VA or non-VA patient care, research, or educational responsibilities that make adherence to the same regularly scheduled tour of duty every pay period difficult. Adjustable tours are appropriate, for example, for part-time physicians at active affiliated facilities with extensive patient care, research, and educational responsibilities who *frequently* encounter emergencies or other unanticipated obligations that require them to deviate from their scheduled tour of duty. Adjustable work hours provide a means for minimizing this problem.
 - b. **Exclusions**. The following employees shall not be placed in adjustable work hours:
- (1) Part-time physicians with fixed work requirements and part-time physicians who do not routinely need to adjust their tours of duty; and
 - (2) Part-time title 38 employees other than physicians.
 - c. **Premium Pay**. Part-time physicians are ineligible for premium pay.

2. DEFINTIONS

- a. Adjustable Work Hours. See paragraph 1a above.
- b. **Administrative Workweek.** The administrative workweek includes Sunday through the following Saturday.
- c. **Annual Service Level Expectation.** The number of hours in a service year part-time physicians on adjustable work hours are expected to be present during the service year.
- d. **Biweekly Work Requirement.** For part-time physicians on adjustable work hours, the total number of hours an employee is scheduled to work during the pay period or to otherwise account for through the use of approved leave. The work requirements of part-time physicians on adjustable work hours are dependent upon VA patient care and other work requirements. All or a portion of the biweekly requirement may be set as a tour of duty (specific hours that the employee must be on duty). However, all of the hours in the biweekly work requirement can be variable if such an arrangement meets VA's needs. These physicians need not be scheduled for duty every biweekly pay period if VA duty is not required. The biweekly work requirement may remain stable throughout the life of the Memorandum of Service Level Expectations, or may be adjusted by the supervisor on a pay period to pay period basis.

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- e. **Memorandum of Service Level Expectations, VA Form 0880a.** VA Form 0880a is a written memorandum of understanding between VA and the part-time physician on adjustable work hours that specifies an expected level of service during a service year.
- f. **Present**. To be considered present and to have time count toward the annual work requirement, a part-time physician on adjustable work hours must be engaged in VA clinical, administrative, research, or educational activities as outlined in chapter 3, paragraph 2g, this part.
 - g. **Service Year.** The one-year period covered by a signed VA (see paragraph 4d below).
- h. **Tour of Duty.** Since the biweekly work requirement and schedule of part-time physicians on adjustable work hours may vary from pay period to pay period, they do not have a tour of duty, per se. However, a tour of duty will be noted in ETA reflecting the average number of hours to be worked per pay period as stipulated on the Memorandum of Service Level Expectations. The tour of duty forms the basis on which the employee will be paid while the Memorandum of Service Level Expectations is in effect.

3. RESPONSIBILITIES

- **a. VISN Directors** are responsible for:
- (1) Monitoring facility compliance with the provisions of this appendix and for incorporating such compliance into performance contracts of appropriate subordinate employees; and
- (2) Recommending or taking disciplinary action against facility Directors or others who fail to meet the responsibilities outlined in this appendix.

b. Facility Directors are responsible for:

- (1) Establishing local policies related to adjustable work hours. If adjustable work hours are used, the facility policy must contain procedures for auditing management and employee compliance (see paragraph 6 below);
- (2) Adjusting the work hours of part-time physicians to levels that are consistent with VA physician staffing guidelines, patient care requirements, and other VA work requirements;
- (3) Ensuring all current and newly appointed part-time physicians are made aware of their responsibilities with regard to VA time and attendance procedures;
- (4) Enlisting the cooperation of affiliate officials in the implementation of VA time and attendance policies and procedures;

- (5) Incorporating compliance into the performance contracts of appropriate subordinate employees and recommending or taking disciplinary action against employees or management officials who fail to fulfill their responsibilities; and
- (6) Approving or terminating VA Form 0880a, or delegating this responsibility to appropriate facility official(s).

c. Chiefs of Staff are responsible for:

- (1) Providing the facility Director with assistance in carrying out the provisions of this appendix;
- (2) Reviewing proposals to establish or terminate a VA Form 0880a, and making recommendations to the facility Director level regarding appropriate utilization of such employees (whether part-time employment is appropriate, whether the proposed staff mix is appropriate, and whether the recommend level of part-time employment is consistent with VA patient care or other work requirements); and
- (3) Ensuring part-time physicians and their immediate supervisors carry out their responsibilities. This includes recommending or taking disciplinary action where appropriate.

d. Clinical Service Chiefs, Service Line Managers, and Other Supervisors are responsible for:

- (1) Recommending approval or termination of a VA Form 0880a for employees under their supervision;
- (2) Ensuring subordinate employees have received required training related to time and attendance procedures;
- (3) Monitoring levels at which part-time physicians are employed so they are consistent with appropriate staffing guidelines, as well as VA patient care or other work requirements; and for promptly recommending adjustments when appropriate;
- (4) Establishing and adjusting biweekly work requirements for subordinate employees based on VA patient care and other work requirements (see paragraph 5a below); and for approving or disapproving written requests from employee to adjust their biweekly work requirements based on VA patient care or other work requirements;
- (5) Notifying the timekeeper promptly whenever leave requests or changes to an employee's biweekly work requirement have been approved;
- (6) Certifying time and attendance records of employees under their supervision, and ensuring time and attendance records reflect actual attendance (see paragraph 6 below);

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- (7) Monitoring the amount and type of time part-time physicians under their supervision have worked during their service year to ensure it is consistent with the approved VA Form 0880a, and for promptly recommending termination of VA Form 0880a when appropriate;
- (8) Investigating excessive requests for unscheduled hours or absences as these may be indicative of performance or staffing problems. An excessive number of requests may also indicate the type of appointment is inappropriate or the service level expectations should be changed (e.g., hours increased or decreased); and
- (9) Recommending or taking appropriate disciplinary action whenever employees fail to comply with the provisions of this appendix or falsify time and attendance records.

e. Chief, Human Resources Management Service or Equivalent Individual are to:

- (1) Provide advice and assistance to management officials and employees regarding VA work scheduling requirements and adjustable work hours for part-time physicians;
 - (2) Perform the reconciliation process as described in paragraph 9a below; and
 - (3) Ensure that supervisors have received required training related to time and attendance procedures.

f. Chiefs of Fiscal Service or Equivalent Individuals are responsible for:

- (1) Ensuring timekeepers have received required training related to time and attendance procedures; and
- (2) Ensuring required semi-annual audits of time and attendance reports have been completed as required by VA Manual MP-6, Part V, Supplement 2.2.

g. Employees are responsible for:

- (1) Agreeing to service level expectations as outlined in paragraph 4 below;
- (2) Knowing their approved biweekly work requirement and mandatory scheduled hours (if any) and for submitting written requests for supervisory approval to deviate from their biweekly work requirement or mandatory scheduled hours. Such requests must be submitted and approved in advance whenever possible;
- (3) Monitoring amount and type of time they have worked during the service year to ensure the amounts is consistent with the Memorandum of Service Level Expectations;
 - (4) Complying with all policies and procedures associated with adjustable work hours; and

(5) Fulfilling their entire biweekly work requirement and being present during mandatory scheduled hours unless absent on approved leave or where a deviation is properly authorized by their supervisor, and for adhering to all other locally established time and attendance procedures.

4. MEMORANDM OF SERVICE LEVEL EXPECTATIONS, VA Form 0880a

- **a. General**. Part-time physicians placed on adjustable work hours must sign a Memorandum of Service Level Expectations (including part-time physicians on adjustable work hours on the effective date of this change). Under the Memorandum, VA and the part-time physician reach an annual service level expectation based on anticipated VA patient care or other work requirements and physician availability. Each part-time physician on adjustable work hours is to be paid the same amount each biweekly pay period, computed as provided in paragraph 8 below. VA officials establish biweekly work requirements and schedules for their employees based on recurring or known patient care and other VA needs. The biweekly work requirement and/or schedule may be changed with the supervisor's written approval (which may be in electronic format, e.g., e-mail, etc.). However, if VA duty is not required, the biweekly work requirement of physicians on adjustable work schedules are to be so annotated.
- **b.** Terms of the Memorandum. VA Form 0880a does not constitute an employment contract. It does not obligate VA to provide a physician with the level of employment outlined in the Memorandum, nor does it obligate a physician to provide the expected level of service. However, whenever possible, either VA or the employee should give the other advance notice whenever any VA Form 0880a is to be terminated and terminations should coincide with the end of a pay period (see subparagraph 4g below).
- **c. Content of VA Form 0880a** . VA Form 0880a contains an expected level of commitment and estimates the amount of time a physician is expected to dedicate to patient care, administrative, research, and educational activities. These activities are defined in paragraph 2g of chapter 3 of this part. A worksheet to assist in allocating such time is also provided in Appendix K to this part.
- **d.** Effective Dates of VA Form 0880a. VA Form 0880a is to be 1 year in length. The agreed level of service shall be commenced on the first day of a pay period.
- **e. Approval of VA Form 0880a** . VA Form 0880a is to be prepared and approved by the facility Director, or designee. Copies of the approved memorandum are to be provided to the part-time physician, the physician's supervisor, and a copy should be filed in the employee's payroll folder. The original signed form is to be filed on the left hand side of the employee's Merged Records Personnel Folder.
- **f. Limitations.** The amount of service may not exceed 1820 hours in a service year (seven eights of full-time employment).
- **g. Adjustment of VA Form 0880a.** The total expected service on VA Form 0880a may not be modified, but if an adjustment is required, the existing Memorandum of Service Level Expectations must be terminated and reconciled as outlined in paragraph 9a below. Accordingly, a new VA Form 0880a must be established.

h. Termination of VA Form 0880a

- (1) Termination by VA or Physician. Whenever possible, either party should give the other advance notice that a VA Form 0880a is going to be terminated, and the termination of VA Form 0880a should coincide with the end of a pay period. VA or the physician may terminate VA Form 0880a at any time. Such terminations shall be in writing and filed on the left hand side of the employee's Merged Records Personnel Folder. VA officials shall promptly terminate VA Form 0880a whenever it no longer forms the appropriate basis for compensating the physician. When VA terminates a VA Form 0880a prior to the expiration period, the employee's services should be reviewed to determine whether a fixed work schedule, another type of VA appointment, or termination from employment is appropriate.
- (2) **Automatic Termination**. VA Form 0880a automatically terminates on its expiration date. It also terminates if a physician leaves VA employment for any reason, transfers to another VA facility, moves to an excluded position (e.g., movement to a part-time position with a fixed schedule or conversion to full-time, intermittent, fee basis or without compensation employment), or signs a new VA Form 0880a.
- (3) **Reconciliation**. When VA Form 0880a is terminated as outlined under paragraphs g or h(1) or (2) above, it must be reconciled in accordance with paragraph 9a below.

5. SCHEDULING AND TIMEKEEPING

- a. **Establish Work Schedules Based on Known Work Requirements**. Supervisors must ensure adequate patient care coverage and that VA work requirements are met. These requirements are to be reviewed and employees' work schedules are to be adjusted to reflect those requirements. Whenever possible, such adjustments will be made in advance of the administrative workweek.
- b. **Procedures for Substitutes**. When VA and the employee sign VA Form 0880a, they are to agree upon procedures for ensuring the continuation of patient care activities when the employee is absent. If a substitute is provided, that substitute is to be appropriately credentialed and privileged and informed about relevant patient care issues.
- c. **Time and Attendance Reports**. All part-time physicians placed on adjustable work hours will record their time and attendance using the automated procedures in paragraph (1) below.
- (1) Documenting Time and Attendance through the Veterans Health Information Systems and Technology Architecture (VistA) through the use of the Electronic Subsidiary Record (ESR)
- (a) **Establishment of the Biweekly Work Requirement.** Supervisors will establish a biweekly work requirement for employees on adjustable work hours and this requirement will be documented in writing. All or a portion of the biweekly requirement may be set as a tour of duty (specific hours that the employee must be on duty). However, all of the hours in the biweekly work requirement can be variable if such an arrangement meets VA's needs. Periodically, supervisors are to assess the need for employees' services and make appropriate adjustments in the biweekly work requirement as necessary. If there is a need to adjust an

employee's biweekly work requirement, the approved change will be documented in writing by the supervisor. Whenever possible, adjustments to an employee's biweekly work requirement should be approved in advance. However, in emergent situations, the supervisor can approve such changes on a retroactive basis. In all cases, the supervisor's approval of a change in the biweekly work requirement will be documented in writing.

- (b) **Timekeeper.** Prior to the beginning of each pay period, an ESR for each week of the pay period will be prepared for each part-time physician on adjustable work hours based on the biweekly work requirement.
 - (c) **Employee.** Employees are to record their time and attendance on a daily basis in the ESR.
- (d) **Supervisor** Supervisors are to verify and document that the biweekly work requirement has been met or accounted for by an appropriate leave charge, or that there has been an approved change to the biweekly work requirement. After verification, the supervisor will approve the ESR.

6. OTHER REQUIRED METHODS FOR DOCUMENTING TIME AND ATTENDANCE

a. Obligation to Document. Facility management and supervisory officials are responsible for ensuring time and attendance of part-time physicians is properly documented. The method(s) used must be incorporated into facility policy and are to be sufficiently comprehensive to assure outside reviewers that required VA duty has been performed. Suggested methods for doing this are outlined in paragraph b below.

b. Suggested Methods for Documenting Time and Attendance

- (1) Have employees physically report to a specifically identified employee or alternate;
- (2) Periodically visiting the clinic/procedure areas where part-time staff are assigned and observe whether the part-time physicians scheduled for duty are in fact present;
- (3) Review charts or other records of scheduled patients seen by the part-time physician involved. This includes reviewing charts to ensure they are signed (thereby documenting proper supervision of residents);
- (4) Review other records such as operating room logs, postoperative notes, minutes of meetings, operations reports, and other material that document the presence of employees; and
- (5) Verify that the physician involved signed on to a VA computer system from an authorized location.

7. LEAVE

a. General. There is no change in leave accrual rates for part-time physicians on adjustable work hours. Accrual rates are based on actual service (1 hour of annual leave for each 10 hours in a pay status

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and 1 hour of sick leave for each 20 hours in a pay status). The minimum leave charge is one-quarter hour, and the maximum annual leave carryover is 240 hours. Part-time employees on adjustable work hours are also entitled to all other types of leave (e.g., court leave, military leave, and leave without pay).

b. Requirement to Request Leave for all Scheduled Duty. Employees on adjustable work hours must request the appropriate type of leave whenever they are absent from scheduled duty or when they will not meet their established biweekly work requirement. Approval of leave is based on VA patient care or other work requirements. Such leave is to be requested in advance except in emergencies, and, if leave is not properly approved, the employee shall be considered to be absent without leave.

8. PAY COMPUTATION

- **a. Basic Pay**. Employees on adjustable work hours are entitled to biweekly pay computed by dividing annual rate of pay by 2080, and multiplying the result by the hours allocated to the pay period (annual work requirement computed under paragraph 4a above divided by 26).
- **b. Pay Adjustments**. Compensation received under VA Form 0880a shall be adjusted to reflect all changes in pay. This includes adjustments to reflect annual pay increases, tenure increases, and all other changes in the rate of total pay.

c. Examples

- (1) **Example 1:** Over the next service year, a part-time physician commits to spend time at VA as follows: 832 hours of clinical activities, 104 hours in administrative activities, 26 hours in educational activities, and 156 hours performing approved research. The employee's total expected commitment would be 1118 hours per annum, or 43 hours a pay period (1118/26). Dividing the annual rate of pay by 2080 and multiplying each result by 43 determines the amount of pay the employee is to receive each pay period.
- (2) **Example 2:** Over the next service year, a part-time physician commits to spending 1248 hours in clinical activities, 156 hours in administrative activities, 26 hours related to educational activities, and 260 hours performing approved research. The employee's total expected commitment would be 1690 hours per annum, or 65 hours a pay period (1690/26). Dividing the employee's annual rate of pay by 2080 and multiplying that hourly rate by 65 determines the amount of pay the employee receives each pay period.
- d. **Substitutes**. Only hours of work performed by an employee may be deducted from the annual service commitment. Any substitute provided on behalf of an employee is subject to the conditions of the substitute's appointment.

9. ADMINISTRATION OF MEMORANDA OF SERVICE LEVEL EXPECTATIONS

- **a. Reconciliation of Memoranda.** When a memorandum expires or is terminated, the salary and benefits paid are to be reconciled against the amount of work performed during the term of VA Form 0880a. The human resources office shall determine the number of hours the employee should have worked between the beginning and expiration or termination of VA Form 0880a (i.e., the number of hours allocated to each pay period under paragraph 8a above multiplied by the number of full pay periods between the beginning and ending date of VA Form 0880a) and then determine the number of hours the employee worked during this period, compute any applicable overpayment or underpayment. Based on information received from the human resource office, the payroll office will take the necessary steps for underpayment or overpayment. In the case of an overpayment, a SF 1114, Bill of Collection, will be issued to the employee.
- b. **Reconciliation of Leave Balances.** In addition to the determination of whether an underpayment or overpayment occurred, the human resources office must also determine whether an adjustment to the part-time physician's leave balances must also be made. For example, if a memorandum of service level expectations set an employee's expected service at 1040 hours, and the reconciliation showed that the employee actually worked 1060 hours, the employee's leave account should be credited with 2 hours of annual leave and one hour of sick leave. On the other hand, if the same employee worked only 1020 hours, 2 hours of annual leave and one hour of sick leave should be deducted from the employee's leave balance. The payroll office is to be informed to take necessary actions to adjust leave balances when needed.
- **c. Deceased Employees.** If an employee dies while employed by VA, a notice should be mailed to the person claiming the employee's unpaid compensation at the time of death. If no compensation was due to the employee at the time of their death, then the notification should be mailed to the legally entitled beneficiary designated on the SF 1152, Designation of Beneficiary, Unpaid Compensation of Deceased Civilian Employee, or the person(s) designated by the order of precedence outlined in 5 U.S.C. 5582, if they can be located. If there is no record of any beneficiary, then the notification should be mailed in the employee's name to the last address of record. If the employee worked hours for which the employee was not compensated, all salary and fringe benefits due are to be paid on behalf of the employee. The legally entitled beneficiary of their unpaid compensation may file claims for such employees. Claims by these beneficiaries should be processed in the same manner as for any other claimant except that payments will be handled using procedures for payment of beneficiaries of deceased employees. See VA Manual MP-4, Part II, chapter 4.
- **e. Waiver of Overpayment.** If an SF-1114 is issued under paragraph 9a above, the overpayment liability may not be waived.

10. UTILIZATION OF PART-TIME EMPLOYEES

a. Reviewing Utilization of Employees. Using the criteria in VA Handbook 5005, Part II, chapter 3, paragraph 2, and paragraph 10b below, facility Directors, or their designees, are to review the appointments of employees covered by this appendix. Appointments shall be reviewed on an annual basis and more

frequently if there are indications that the type of appointment may not be facilitating the accomplishment of VA patient care or other work requirements.

b. Employment Authorities

(1) **Part-Time Appointments.** Physicians may be appointed on a part-time basis under Section 7405(a)(1)(a) of Title 38, United States Code. Part-time appointments normally imply regularly scheduled tours of duty that do not significantly change from one pay period to another. However, part-time physicians should be placed on adjustable work schedules if they have VA or non-VA patient care, research or educational responsibilities that make adherence to regularly scheduled tours of duty impractical. It is important to note that part-time appointments are only appropriate in situations where the physician's duties and responsibilities are to be performed at the VA facility, regardless of whether the tour is fixed or adjustable. In situations, where the physician's presence at the VA facility is not required (e.g., on-call), other types of appointments or a mix of appointments may be more appropriate.

(2) Other Work Schedules or Appointments

- (a) **Intermittent Work Schedules.** Employees may be employed on an intermittent basis when demand for their services varies over time. The advantage is that periods of employment may be tailored to varying needs for services. The drawback is that intermittent employees are not entitled to employee benefits. Intermittent employment also presumes services are provided at the VA facility. Employees utilized on an intermittent basis are only compensated when they provide services, they are placed on the applicable grade and rate of pay on the Physician and Dentist Base and Longevity Pay Schedule, and pay for such positions is limited to the rate of basic pay for Level V of the Executive Schedule.
- (b) **Fee Basis Appointments.** Employees may be appointed on a fee basis when the demand for services varies over time and fees can be tailored to the type of service provided. For example, employees may be appointed on a fee basis to provide on-call coverage. Employees on these types of appointments are not eligible for, and the rate of pay for such positions is limited to the rate of basic pay for Level V of the Executive Schedule. Care must also be exercised with these appointments, as facilities are also responsible for ensuring employees provide the services for which they are compensated and that procedures are not generated solely for the purpose of generating fees. Fee basis appointments are also based on the employee providing specific services. This may be a problem in that fee basis employees would not generally be available to perform administrative tasks otherwise be performed by part-time employees (e.g., peer review, attendance at meetings).
- (c) **Dual Appointments.** Individuals may be given more that one of the above appointments if that is the best way to secure the employee's services. However, the expectations concerning time and attendance need to be clear and, if fee basis is involved, the facility needs to ensure the services are actually being provided or that procedures are not generated solely for the purpose of generating fees. The rate of basic pay and fees payable to such individuals is limited to the rate of basic pay for Level V of the Executive Schedule. Additional information about dual employment may be found in VA Handbook 5005, Part II, Section A, Chapter 3, paragraph 3b.

- 11. NOTIFYING PART-TIME PHYSICIANS. All part-time physicians placed on adjustable work hours after the effective date of this change are to be advised of VA time and attendance procedures and certify in writing that they understand such procedures. This certification is to be filed on the left hand side of the employee's Merged Records Personnel Folder. The part-time physician is to certify that:
- a. They will promptly advise VA if their service level expectations outlined in their VA Form 0880a no longer accurately reflect their level of commitment to VA;
- b. They have been advised they may only post hours of duty performed at or on behalf of VA on the ESR;
- c. If they are scheduled for VA duty, they must perform work or otherwise account for such time through the use of approved leave;
 - d. Work performed must be posted *daily* on the ESR;
- e. They must obtain written authorization from their supervisor for any variation from the approved biweekly work requirement;
- f. If they are not present or on approved leave when a random audit of time and attendance, they will be considered to be absent without leave; and
- g. Falsification of time and attendance records or pre-posting work on the ESR will result in appropriate disciplinary action.

APPENDIX J. MEMORANDUM OF SERVICE LEVEL EXPECTATIONS FOR PART-TME PHYSICIAN ON ADJUSTABLE WORK HOURS

Department of Veterans Affairs					
MEMORANDUM OF SERVICE LEVEL EXPECTATIONS FOR PART-TIME PHYSICIAN ON ADJUSTABLE WORK HOURS					
PRIVACY ACT STATEMENT: The Department of Veterans Affairs (VA) is asking you to provide the information on this form under the authority of Section 7405(a)(1)(a) of Title 38, United States Code in order for VA to determine the expected level of commitment and estimate the amount of time a part-time physician is expected to dedicate to patient care, administrative, research, and educational activities. The information you provide will become part of the "General Personnel Records (Title 38)-VA" (76VA05) Privacy Act system of records. VA may disclose the information that you put on the form as permitted by law. VA may make a "routine use" disclosure of the information for: civil or criminal law enforcement; litigation in which the United States is a party or has an interest; Federal or State licensing boards; and personnel administration. Providing this information to VA is voluntary. However, if you do not provide the information, VA will be unable to employ you as part-time physicians placed on adjustable work hours must complete and sign a Memorandum of Service Level Expectations.					
NAME OF VA FACILITY	FACILITY ADDRES			FACILITY STATION NO.	
VA Medical Center	968 ABC S	Street, WayCros	s, MD	xxx	
EN	PLOYEE AGREE	MENT/CERTIFICATION			
1. Under regulations issued by the Secretary of Veterans Affairs, hereinafter referred to as the Secretary, I understand that I am to provide to the Veterans Health Administration (VHA) of the Department of Veterans Affairs (VA) 1560 hours of service during the period beginning February 5, 2007; and ending February 4, 2008. Generally, these hours are to be divided as follows: .50 % (patient care), .17 % (administration), .17 % (research), and .17 % (education). I understand I may terminate this memorandum at any time; that my pay and benefits will be determined in accordance with regulations issued by the Secretary, and that this memorandum does not alter the applicability of VHA regulations or procedures concerning the terms, conditions, or duration of my employment. It is further understood that this memorandum does not constitute an employment contract.					
This memorandum shall be effective upon a otherwise eligible, shall commence on the date				ole, provided I am	
3. If this memorandum expires or is terminated, the hours of service I have provided and salary and benefits I have received during the term of this memorandum will be compared. If I have provided service for which I have not been compensated, VHA will compensate me for such service in accordance with regulations issued by the Secretary or designee. If I have been compensated for hours of service I have not provided, I understand I am to refund such excess compensation to VHA in accordance with regulations issued by the Secretary or designee. It is further understood that any amount due on my behalf will be considered to be a debt due to the United States that I am to pay in full as directed by VA.					
4. I understand that this Memorandum of Service Level Expectations terminates when any of the following occur:					
 a. Separation from VHA employment for any reason. b. Transfer to another VHA facility. c. Acceptance of a position that does not qualify for adjustable work hours. d. Completion of agreed period of service, or enactment of superseding law. e. Execution of a superseding Memorandum of Service Level Expectations. 					
5. I acknowledge that VA Directive 5011 and VA Handbook 5011, part II, issued by the unit secretary (or designee) to implement adjustable work hours, are incorporated into and made a part of this memorandum and I have read a copy.					
6. I acknowledge that the unit secretary (or designee) may, pursuant to regulations, adjust the amount of the pay to which I am entitled to reflect appropriately any change in my basic pay, special pay (if applicable), or position status (e.g., proportion of part-time employment or change in level of responsibility).					
SIGNATURE OF APPLYING PHYSICIAN Als. Jana		1/08/200	7		

INSTRUCTIONS FOR COMPLETING AND MONITORING MEMORANDA OF SERVICE LEVEL EXPECTATIONS

- 1. Estimate the number of hours the part-time physician is expected to serve during the term of the Memorandum of Service Level Expectations, VA Form 0880a. The estimate, which is to be based on VA patient care and other work requirements, is then to be broken down by the amount the employee is generally expected to spend in patient care, administration, research, and education. Use VA Form 0880b, Worksheet for Determining Percentages on Memorandum of Service Level Expectations. This worksheet is to be used with the definitions of VA duty found in paragraph 2g of chapter 3, of part II of this handbook. Once completed, the worksheet is to be filed on the left hand side of the employee's Merged Records Personnel Folder.
- 2. Once an understanding with the part-time physician is reached, VA Form 0880a is to be signed and dated by the applicant or employee. The facility Director or designee is also to sign the document and enter the effective date of VA Form 0880a.

Note: Memoranda of Service Level Expectations are to be 1 year in length. Memoranda of Service Level Expectations are to be effected on the first day of the pay period.

- 3. VA officials responsible for monitoring the Memorandum of Service Level Expectations will retain a copy; a copy will be provided to the employee; and a copy will be filed in the employee's Merged Records Personnel Folder.
- 4. Officials responsible for monitoring Memorandum of Service Level Expectations are to fulfill their responsibilities as outlined in paragraph 3 of Appendix II-I of this handbook.

APPENDIX K. WORKSHEET FOR DETERMINING PERCENTAGES ON MEMORANDUM OF SERVICE LEVEL EXPECTATIONS

Department of Veterans Affairs							
WORKSHEET FOR DETERMINING PERCENTAGES ON MEMORANDUM SERVICE LEVEL EXPECTATIONS (VA Form 0088a)							
NOTE: See VA Handbook 5011, Part II, Chapter 3, for guidance on adjustable work hours for part-time physicians.							
the authority of estimate the an activities. The system of recor	Section 7405(a)(1 nount of time a prinformation yourds. VA may discontinuous properties of the section of the s	: The Department of Veterans A (a) of Title 38, United States Coart-time physician is expected provide will become part of the close the information that you perivil or criminal law enforcem and personnel administration. If be unable to employ you as parevel Expectations.	ode in order for VA to to dedicate to patien e "General Personnel out on the form as p	o determine that care, admit Records (Termitted by I	he expected level of comistrative, research, and itle 38)-VA" (76VA05 law. VA may make a	mmitment and id educational) Privacy Act "routine use"	
NAME OF PHYSICIAN	N .		DATE (Month/Day/Year)			
Dr. X			01/08/2007				
NAME OF VA FACILIT	TY		SERVICE AND SECT	ION WITHIN VA	FACILITY		
VA Medical	Center		Extended Ca	re, Geria	atrics		
	FFORT LEVEL	NAME OF SUPERVISOR	-	NAME OF TIME	KEEPER		
HOURS PER WEEK	HOURS PER YEAR 1560	в.н.		R. S.			
		EFFORT I	DISTRIBUTION				
	ACTIV	ITΥ		HOURS PER WEEK Give range for intermitent activities)		OVERALL PERCENT OF EFFORT	
1. Clinic							
2. Inpatient ward attending		15	15		50%		
3. Inpatient cor	nsult attending						
4. Operating ro	om						
5. Special proce	edures						
6. Administration	on		5	5			
7. Teaching			5	5			
8. Research			5	5			
9. Total			30				
			ASSIGNMENTS				
		NAME OF CLINIC			DAY/TIME	FREQUENCY	
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INPATIENT WARD ATTENDING					
SERVICE		WEEKS			
Transitional Care Unit	52				
GEM Unit		12			
INPATIENT CON	SULT ATTENDING				
SERVICE		WEEKS			
Geriactrics		12			
OPERAT	ING ROOM				
SERVICE		DAY	FREQUENCY		
SPECIAL P	ROCEDURES				
SERVICE		DAY	FREQUENCY		
ADMINIS	STRATION				
POSITION	C	OMMENT			
Director Meet with providers on a		n a regular basi	a regular basis		
COMMITTEES (Include	ioint VA/affiliate committees)				
COMMITTEE		POSITIO	N		
VISN Education Sub		Member			
ECL Ops, QA, Provider		Member			
P&T		Member			
DIDACTIC TEACHING ACTIVITIES (Incl	ude preparation time, curriculum devel	opment)			
ACTIVITY COMMENT					
UT, Baylor Student					
Residents, Fellows					
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RESEARCH (List or append approved projects, indicating location of research and sponsorship (if any). Continue on the blank page 3 provided (if needed))				
EXPECTATIONS RELATED TO VA APPOINTMENT				
 The service chief/manager or other appropriate supervisory official must approve changes in classignments must be covered. You must be engaged in approved VA work during your scheduled work hours. All leave (annual leave, authorized absence, etc.) must be recorded. Leave must be requested at Whenever possible, you are to submit requests for adjustments to your biweekly work requirem 	and reported in advance.			
SIGNATURE OF PHYSICIAN	DATE (Month/Day/Year)			
SIGNATURE OF DESIGNATED VA OFFICIAL	DATE (Mohih/Day/Year)			
Si Vistra	1/09/2007			
CONTINUATION SHEET	7/			
· ·				
Research Activities:				
Role of Drug X on brain functions: Funded by XYZ Pharmacy				
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